

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

REGINALD WENDELL BOYD, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:14CV250
	)	
UNITED STATES, et al.,	)	
	)	
Defendant(s).	)	

ORDER AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a federal prisoner, submitted a Complaint alleging breach of contract and various violations of his constitutional rights against the United States and an Assistant United States Attorney, Randall S. Galyon. Given the nature of the allegations, the Court treated the filing as a civil rights action under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review.
2. The Complaint is not on forms prescribed for use by this Court, nor is the information requested by such forms and necessary to process the Complaint pursuant to 28 U.S.C. § 1915A contained in Plaintiff's submission. See LR 7.1(e).
3. Plaintiff's Complaint appears defective in a number of respects. For example, it appears that the parties he names as Defendants are immune from suit for damages related to his criminal conviction. It addition, it appears that he is improperly using a civil suit to attack his criminal conviction. Moreover, the

Complaint appears frivolous. Plaintiff's suit is associated with his conviction in his criminal case, United States v. Boyd, No. 1:05CR159-2 (M.D.N.C), which led to his current incarceration. He appears to allege that he sent certain documents to the Internal Revenue Service and to Defendant Galyon tendering a settlement of his criminal case, that the documents were received, and that he received no response within deadlines he set. Therefore, he believes that the "balance" of his criminal case should be adjusted to zero. He also claims that a contract was thereby formed, that Defendants breached the contract, and that he is now entitled to \$2,400,000 in damages. Plaintiff's claims are nonsensical. There is no monetary "balance" associated with his criminal conviction beyond, potentially, a remaining balance of \$200.00 in special assessments. In any event, Plaintiff cannot form contracts simply by mailing documents to the Government and hoping that it does not reply within arbitrary deadlines that he sets. His claims appear to be nothing more than a frivolous scheme aimed at ending his imprisonment and/or obtaining money from the Government.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper forms, which corrects the defects of the present Complaint. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Federal Rule of Civil Procedure 8 (*i.e.*, Sections (a) & (d)). He may use the § 1983 forms to pursue a Bivens claim if he believes he can raise a nonfrivolous claim.

*In forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Federal Rule of Civil Procedure 8 (*i.e.*, Sections (a) & (d)).

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint, on the proper forms, which corrects the defects cited above.

This, the 16th day of June, 2014.

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/s/ Joi Elizabeth Peake  
United States Magistrate Judge